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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/982,377	10/18/2001	Jean Blanchet	88265-6891	7681

28765 7590 08/27/2003

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EXAMINER

YEUNG, GEORGE CHAN PUI

ART UNIT

PAPER NUMBER

1761

DATE MAILED: 08/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/982,377

Applicant(s)

Blanchett et al

Examiner

George Young

Group Art Unit

1761

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☒ Responsive to communication(s) filed on June 13, 2003
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-21 ☒ are pending in the application.
- Of the above claim(s) 13-21 ☒ are withdrawn from consideration as a non-elected invention.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1, 2 and 4-12 ☒ are rejected.
- ☒ Claim(s) 3 is/~~are~~ objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some\* ☐ None of the:
  - ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
  - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

Office Action Summary

### **DETAILED ACTION**

Applicants' election with traverse of the invention of Group I (method claims 1-12) in Paper No. 5 is acknowledged. The traversal is on the ground that there is no serious burden for searching and examining both of the groups, as both are directed to cooking pizzas. This is not found persuasive because of the reasons set forth in Paper No. 4. Moreover, the issues raised in the examination of apparatus claims are divergent from those raised in the examination of method claims. While there may be some overlap in the searches of the two inventions, there is no reason to believe that the searches would be identical. Therefore, based on the additional work involved in searching and examining both distinct inventions together, restriction of the distinct inventions is clearly proper.

The requirement is still deemed proper and is therefore made FINAL.

Claim 4 is objected to because of the following informality:

In claim 4, line 3, the words "for and" should apparently read -- and for --.

Claim 2 is rejected under 35 U. S. C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention for the following reason:

There is no antecedent basis for "the frozen pizza base" recited in claim 2, lines 1-2.

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 8-10 and 12 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by McDonald et al (see particularly column 5, lines 17-38).

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over McDonald et al. It would have been obvious to store the frozen dough based crusts and the frozen toppings of McDonald et al separately from each other in a mobile unit so that they can be delivered to pizza restaurants, deliveries and/or carry out businesses by the mobile unit after preparing the frozen dough based crusts and the frozen toppings at a centralized unit.

Claims 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over McDonald et al in view of Ahlgren et al. The McDonald et al patent is silent to the teaching of baking the frozen pizza at a temperature of between about 280<sup>0</sup>C to about 450<sup>0</sup>C to produce a cooked pizza product in less than 5 minutes. The Ahlgren et al patent shows the conventional expedient of baking a frozen pizza at a temperature of between 300<sup>0</sup>C to 375<sup>0</sup>C to produce a cooked pizza product in 3 minutes. Therefore, it

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would have been obvious to bake the frozen pizza of McDonald et al at a temperature of 300°C to 375°C as per the teaching of Ahlgren et al in order to produce a cooked pizza product in 3 minutes.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over McDonald et al. It would have been obvious to form some of the toppings as cubes since it is an obvious matter of dietary consideration or personal preference.

Claim 3 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of claims 1 and 2.

The Bingham et al patent is cited to show a compact pizza preparation and delivery vehicle. The Cocozzella patent is cited to show a method of making a frozen pizza shell and pizza.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner George C. Yeung whose telephone number is (703) 308-3848. The examiner can normally be reached on Monday-Friday from 10:30 AM to 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (703) 308-3959. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

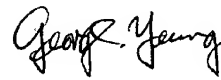
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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

G. C. Yeung/mn  
August 20, 2003



**GEORGE C. YEUNG  
PRIMARY EXAMINER**